



February 17, 2009

---

## HOUSE BILL No. 1028

---

DIGEST OF HB 1028 (Updated February 13, 2009 9:13 am - DI 92)

**Citations Affected:** IC 12-10; IC 12-15; noncode.

**Synopsis:** Home health care. Requires an individual to register with the division of aging (division) before the individual may receive compensation for providing attendant care services. Requires an individual in need of self-directed in-home care and a personal services attendant to submit their services contract to the division, and requires the division to keep the contract on file. Requires the division to provide a list of personal services attendants registered with the division upon request. Provides that certain information may not be released unless the personal services attendant agrees to the release. Requires an individual in need of self-directed in-home care or their fiscal agent to direct deposit and perform other deductions upon the request of the individual providing attendant care services. Requires the division and the office of Medicaid policy and planning to ensure that self-directed in-home care is offered as an option throughout Indiana. Requires certain home health agencies to report specified information until July 1, 2013. Requires the office of the secretary of family and social services to study certain information concerning self-directed in-home care and to report the results of the study to the legislative council not later than July 1, 2010. (The introduced version of this bill was prepared by the health finance commission.)

**Effective:** Upon passage; July 1, 2009.

---

---

**Day, Brown C**

---

---

January 7, 2009, read first time and referred to Committee on Public Health.  
February 10, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.  
February 17, 2009, reported — Do Pass.

---

---

HB 1028—LS 6111/DI 104+



C  
o  
p  
y

February 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1028

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-10-17.1-4.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. As used in this chapter,**  
4 **"fiscal agent" means a person or an organization designated by the**  
5 **division that is used by the individual in need of self-directed**  
6 **in-home care to handle the payroll responsibilities in an agreement**  
7 **between an individual in need of self-directed in-home care and a**  
8 **personal services attendant.**

9 SECTION 2. IC 12-10-17.1-11, AS ADDED BY P.L.141-2006,  
10 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2009]: Sec. 11. An individual who desires to provide  
12 attendant care services must register with the division or with an  
13 organization designated by the division **before the individual may**  
14 **receive compensation for providing attendant care services.**

15 SECTION 3. IC 12-10-17.1-12, AS ADDED BY P.L.141-2006,  
16 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2009]: Sec. 12. (a) The division shall register an individual

HB 1028—LS 6111/DI 104+



C  
o  
p  
y

who provides the following:

(1) A personal resume containing information concerning the individual's **address**, qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

**An individual's address or other contact information provided under this subsection is not public and may not be released by the division or its designated agency unless the individual agrees to the release of the information.**

(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; ~~and~~

(2) the items described in subsection (a)(1) through (a)(4); **and**  
**(3) a copy of an agreement entered into between the personal services attendant and an individual in need of self-directed in-home care.**

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area, **including information needed to contact a personal services attendant if the personal services attendant**

C  
o  
p  
y



1 **agrees to the release of the contact information.**

2 (2) A copy of the information of a specified personal services  
3 attendant who is on file with the division under subsection ~~(c)~~  
4 **(c)(1) through (c)(2)**. The division may charge a fee for shipping,  
5 handling, and copying expenses.

6 **(e) The division shall provide the list of personal services**  
7 **attendants registered under this chapter to a person upon request.**  
8 **The division may charge the person a fee for copying expenses.**

9 SECTION 4. IC 12-10-17.1-16, AS ADDED BY P.L.141-2006,  
10 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2009]: Sec. 16. **(a)** The division shall adopt rules under  
12 IC 4-22-2 concerning:

13 (1) the method of payment to a personal services attendant who  
14 provides authorized services under this chapter; and  
15 (2) record keeping requirements for personal attendant services.

16 **(b) An individual in need of self-directed in-home care, or a**  
17 **fiscal agent with whom the individual has contracted, shall do the**  
18 **following upon the request of the individual's personal services**  
19 **attendant:**

20 **(1) Directly deposit the personal services attendant's wages by**  
21 **electronic funds transfer or other method into the specified**  
22 **personal services attendant's account in a financial institution.**  
23 **(2) Make other deductions and other deposits specified by the**  
24 **personal services attendant, including the following:**

25 **(A) Payments:**

26 **(i) on a policy of insurance; or**  
27 **(ii) into a health savings account.**

28 **(B) Pledges or contributions of the personal services**  
29 **attendant to a charitable or nonprofit organization.**

30 **A deduction made under this subsection must comply with**  
31 **IC 22-2-6-2(a)(1)(A) through IC 22-2-6-2(a)(1)(C) and**  
32 **IC 22-2-6-2(a)(2).**

33 SECTION 5. IC 12-10-17.1-17, AS ADDED BY P.L.141-2006,  
34 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2009]: Sec. 17. **(a)** The individual in need of self-directed  
36 in-home care and the personal services attendant must each sign a  
37 contract, in a form approved by the division, that includes, at a  
38 minimum, the following provisions:

39 (1) The responsibilities of the personal services attendant.  
40 (2) The frequency the personal services attendant will provide  
41 attendant care services.  
42 (3) The duration of the contract.

**C**  
**O**  
**P**  
**Y**



(4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the elderly and disabled program for attendant care services.

(5) Reasons and notice agreements for early termination of the contract.

**(b) The individual in need of self-directed in-home care and the personal services attendant shall provide the division with a copy of the contract required in subsection (a).**

SECTION 6. IC 12-10-17.1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22. (a) The division and the office shall ensure that self-directed in-home care is offered as an option in all areas of Indiana for the community and home options to institutional care for the elderly and disabled program and the Medicaid program.**

**(b) If a local area agency on aging is unable to perform the fiscal intermediary services required for self-directed in-home care, the division or the office may contract with a person to provide these services.**

SECTION 7. IC 12-15-34-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 15. (a) As used in this section, "home health agency" includes a personal services agency licensed under IC 16-27-4. However, the term does not include a hospital licensed under IC 16-21 or a hospital subject to either IC 16-22 or IC 16-23.**

**(b) Not later than July 1, 2010, a home health agency that participates in the Medicaid program or the community and home options to institutional care for the elderly and disabled program established by IC 12-10-10-6 annually shall report to the office the following:**

**(1) Payroll expenses related to employees who provide home health services, that include only the following:**

- (A) Wages.**
- (B) Benefits.**
- (C) Payroll taxes.**
- (D) Mileage reimbursement.**

**(2) Overhead.**

**(3) The percentage of reimbursement received from the state**

C  
o  
p  
y



that is used to compensate employees who provide home health services.

(4) The number of consumer service hours provided by the home health agency.

(5) Amount of the home health agency's revenues and expenditures for the following programs:

(A) Medicaid.

(B) Community and home options to institutional care for the elderly and disabled program.

(6) The frequency with which employees resign, are fired, or retire from a home health agency, computed as the percentage of the agency's employees at the beginning of a calendar year.

(7) Whether the home health agency compensates employees who provide home health services for the following:

(A) Time spent in travel by an employee to provide home health services.

(B) Travel costs.

(c) This section expires July 1, 2013.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The office of the secretary of family and social services shall study and report the following information for calendar year 2009:

(1) The process an individual must follow to be approved to use consumer directed care, including the time it takes for an individual to get approved and receive services, and whether this time varies according to the area of Indiana in which the individual lives.

(2) Results from interviewing area agency on aging staff concerning the barriers to using consumer directed care.

(3) Surveys of individuals participating in consumer directed care on why they chose this option.

(b) The report required in subsection (a) shall be submitted in an electronic format under IC 5-14-6 to the legislative council not later than July 1, 2010.

(c) This SECTION expires December 31, 2010.

SECTION 9. An emergency is declared for this act.

**C  
o  
p  
y**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1028, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-10-17.1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. As used in this chapter, "fiscal agent" means a person or an organization designated by the division that is used by the individual in need of self-directed in-home care to handle the payroll responsibilities in an agreement between an individual in need of self-directed in-home care and a personal services attendant."**

Page 2, between lines 8 and 9, begin a new line blocked left and insert:

**"An individual's address or other contact information provided under this subsection is not public and may not be released by the division or its designated agency unless the individual agrees to the release of the information."**

Page 2, line 22, delete "a contract" and insert **"an agreement"**.

Page 2, line 29, delete "area." and insert **"area, including information needed to contact a personal services attendant if the personal services attendant agrees to the release of the contact information."**

Page 2, line 31, strike "(c)." and insert **"(c)(1) through (c)(2)."**

Page 3, line 2, after "care" insert **", or a fiscal agent with whom the individual has contracted,"**.

Page 3, line 42, delete "available" and insert **"offered as an option"**.

Page 4, line 10, after "Sec. 15." delete "A" and insert **"(a) As used in this section, "home health agency" includes a personal services agency licensed under IC 16-27-4. However, the term does not include a hospital licensed under IC 16-21 or a hospital subject to either IC 16-22 or IC 16-23.**

**(b) Not later than July 1, 2010, a"**.

Page 4, line 15, delete "Annual costs that include the following expended for an" and insert **"Payroll expenses related to employees"**.

Page 4, line 16, delete "employee who provides" and insert **"who provide"**.

Page 4, line 16, delete "services:" and insert **"services, that include only the following:"**.

**HB 1028—LS 6111/DI 104+**



**C  
O  
P  
Y**

Page 4, line 32, delete "Employee turnover information." and insert **"The frequency with which employees resign, are fired, or retire from a home health agency, computed as the percentage of the agency's employees at the beginning of a calendar year."**

Page 4, line 33, after "compensates" insert **"employees who provide home health services"**.

Page 4, delete lines 38 through 39, begin a new paragraph and insert:

**"(c) This section expires July 1, 2013."**

Page 4, line 42, delete "the".

Page 4, line 42, delete "2003 and each" and insert **"2009:"**.

Page 5, delete lines 1 through 21, begin a new line block indented and insert:

**"(1) The process an individual must follow to be approved to use consumer directed care, including the time it takes for an individual to get approved and receive services, and whether this time varies according to the area of Indiana in which the individual lives.**

**(2) Results from interviewing area agency on aging staff concerning the barriers to using consumer directed care.**

**(3) Surveys of individuals participating in consumer directed care on why they chose this option."**

Page 5, line 24, delete "September 1, 2009" and insert **"July 1, 2010"**.

Page 5, line 25, delete "2009" and insert **"2010"**.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1028 as introduced.)

BROWN C, Chair

Committee Vote: yeas 5, nays 4.

C  
o  
p  
y





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1028, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 15, nays 7.

**C  
o  
p  
y**

